

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY – CAMDEN DIVISION

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ENERGY PROGRESS LLC,

Plaintiff,
vs.

EXELON CORPORATION,
BALTIMORE GAS & ELECTRIC, and
JOHN DOES 1–5,

Defendants.

17-CV-_____

Civil Action

Complaint

Plaintiff Energy Progress LLC for its complaint against the above-named defendants, states upon knowledge except where stated upon information and belief:

THE PARTIES

1. At all relevant times, Plaintiff is a company organized under New Jersey law and maintains its offices in Ridgefield, Bergen County, New Jersey.
2. Upon information and belief, Exelon Corporation is an entity organized under Pennsylvania law and operates business under the auspices of Atlantic City

Electric, with offices at 5100 Harding Highway, Mays Landing, New Jersey, among other DBA's and addresses.

3. Upon information and belief, "Baltimore Gas & Electric" (BGE) is a DBA designation and instrumentality of Exelon Corporation, for operations pertaining to Maryland. Although BGE is not a separately-established entity, it is believed to maintain its own address at 110 West Fayette Street, Baltimore, MD, to address local matters.

4. John Does 1 through 5 are individuals who are believed to be entities associated with defendants Exelon or BGE and whose exact identities are presently unknown to Named Plaintiff and who may be joined later in the action.

JURISDICTION AND VENUE

5. The Court has jurisdiction over this action as it arises under 28 U.S.C. § 1332(a). Venue is proper under 28 U.S.C. Section § 1391(1), (2) because substantial events or omissions occurred in this district and defendant solicited business in this district or within New Jersey. Exelon conducts general business in New Jersey as it does in the 48 contiguous states of the United States.

BACKGROUND

6. Plaintiff is in the business of functioning as contractor and subcontractor and provides products and services in the energy-saving lighting field, with such

products as LED bulb and fixture, sales, installations, and maintenance.

7. Plaintiff was authorized by defendant(s) to participate in one or more energy-saving incentive program whereby plaintiff would install energy-saving replacement LED bulbs and fixtures to qualified applicants and defendant would provide certain incentive payments for those installations, after approval.

8. During the course of 2015, plaintiff provided numerous instances of proper, competent products and services and provided billing for such products and services but defendant has failed to tender payment even though payment has already been funded. Annexed hereto as Exhibit 1 is a list of jobs completed, with an outstanding balance of \$205,678.00 plus interest.

9. Defendants have had ample time and opportunity to verify plaintiff's jobs and have done so already. Defendants have known for more than a year that their payment for plaintiff's products and services have been due and overdue but have failed to tender payment due to quasi-governmental bureaucratic delay that has no relationship with plaintiff's performance.

10. In accordance with basic principles of contracts and Uniform Commercial Code, plaintiff has provided full and complete installation and sales. Defendants' withholding plaintiff's payment indefinitely has been unconscionable and indefensible.

CLAIMS FOR RELIEF

Count One – Breach of Contract

11. The foregoing paragraphs are incorporated by reference.
12. By reason of the foregoing, plaintiff provided goods and services under a contract and under the U.C.C. as to sales and/or other relevant sections.
13. Despite plaintiff's repeated requests for payment for the completed jobs, defendant has repeatedly disregarded their obligation to pay. As a result, they have breached their agreement and their obligations under the U.C.C.

WHEREFORE plaintiff demands the outstanding balance of \$205,678.00 plus pre-judgment and post-judgment interest; costs and fees; and any other relief the Court deems just and proper under the circumstances.

Count Two – Quantum Meruit

14. The foregoing paragraphs are incorporated by reference.
15. By reason of the foregoing, plaintiff is entitled to the reasonable value of its goods and services provided to defendants. The reasonable value is the outstanding balance of \$205,678.00 plus pre-judgment and post-judgment interest.; costs and fees.

WHEREFORE plaintiff demands the outstanding balance of \$205,678.00 plus pre-judgment and post-judgment interest; costs and fees; and any other relief the

Court deems just and proper under the circumstances.

Count Three – Unjust Enrichment

16. The foregoing paragraphs are incorporated by reference.
17. Defendants have been unjustly enriched with the goods and services rendered by plaintiff. Plaintiff should be compensated for such unjust enrichment.

WHEREFORE plaintiff demands the outstanding balance of \$205,678.00 plus pre-judgment and post-judgment interest; costs and fees; and any other relief the Court deems just and proper under the circumstances.

Dated: April 26, 2017

/s/ Michael S. Kimm
Michael S. Kimm
Adam Garcia
KIMM LAW FIRM
Attorneys for plaintiff

Exhibit 1

BGE ACCOUNT RECEIVABLES - EPL									
BUSINESS	ADDRESS			PHONE			AMOUNT	BY	DATE
Schraf Associates LLC (2)	9731 Washington Blvd	Laurel	20723	301-765-1111	\$	28,328.00	\$ 28,328.00	EPL	01/23/15
Leonard Drum T/A Pointer Ridge Citgo	808 Crain Hwy		20716		\$	1,620.00	\$ 1,620.00	EPL	04/14/15
Exxon Gas Station - 7100	7100 Minstrel Way	Columbia	21045	443-695-4688	\$	4,610.00	\$ 4,610.00	EPL	04/15/15
Savage Venture Inc	3581 Fort-Meade Rd				\$	1,050.00	\$ 1,050.00	EPL	06/06/15
Cherryhill Fabrication Inc (1)	10531 Jones Rd #D 1				\$	1,260.00	\$ 1,260.00	EPL	06/19/15
Citgo Gas Station-1	R 7500 Riggs Rd	Hanover	21076	443-310-0886	\$	1,120.00	\$ 1,120.00	EPL	06/23/15
Parke West Car Wash (1)	7805 Parke West Dr	Glen Burnie	21061	301-982-5400	\$	2,970.00	\$ 2,670.00	EPL	06/23/15
Exxon Gas Station - 8850 #1	8850 Center Park Dr	Columbia	21045	443-695-4688	\$	4,200.00	\$ 4,200.00	EPL	06/26/15
Forest BP Inc	1824 Forest Dr				\$	4,080.00	\$ 4,080.00	EPL	06/26/15
Music Petroleum	1023 Eastern Blvd	Baltimore	21221	410-391-3225	\$	580.00	\$ 580.00	EPL	06/26/15
Holden Inc	R 6975 Balto-Annapol Blvd	Baltimore	21225	410-636-1404	\$	3,930.00	\$ 3,930.00	EPL	07/01/15
Nor-Lin Inc	6047 Balle-Grove Rd	Baltimore	21225	410-636-8188	\$	695.00	\$ 695.00	EPL	07/03/15
Starting Gate 1	3521 Whiskey Bottom Rd	Laurel	20724	301-498-1616	\$	4,440.00	\$ 4,440.00	EPL	07/03/15
Mount Vernon Inc	815 N Charles St	Baltimore	21201	410-727-2595	\$	3,940.00	\$ 3,940.00	EPL	07/07/15
Mai Ta	810 W Nursery Rd *Suite 3	Linthicum Hts	21090	410-636-5340	\$	720.00	\$ 720.00	EPL	07/09/15
Shell Gas - 9415 Annapolis Rd	9415 Annapolis Rd	Lanham	20706	410-340-1053	\$	4,630.00	\$ 4,630.00	EPL	07/09/15
Starting Gate 2	3521 Whiskey Bottom Rd	Laurel	20724	301-498-1616	\$	1,950.00	\$ 1,950.00	EPL	07/10/15
Ayushi LLC	6010 Meadowridge-Center Dr. Suite C	Elkridge	21075	410-799-2508	\$	820.00	\$ 820.00	EPL	07/13/15
Home Of The World Inc	325 S Dukeland St	Baltimore	21223	410-947-0868	\$	3,040.00	\$ 3,040.00	EPL	07/13/15
Myron D McCaslin Sr	6975 Balto-Annapol Blvd	Baltimore	21225	410-636-3545	\$	820.00	\$ 820.00	EPL	07/14/15
Patrick's Mobile Auto Repair LLC	R 1012 Leslie Ave	Baltimore	21228	410-455-5300	\$	1,420.00	\$ 1,420.00	EPL	07/14/15
Woodland Svcs LLC (1)	2707 North Rolling Rd	Baltimore	21244	410-294-6939	\$	4,320.00	\$ 4,320.00	EPL	07/14/15
Exxon Gas Station - 7311 (Additional)	7311 Wahsington Blvd	Elkridge	21075	443-695-4688	\$	620.00	\$ 620.00	EPL	07/15/15
Javed Iqbal	1007 Leslie Ave	Baltimore	21228	410-744-7590	\$	1,605.00	\$ 1,605.00	EPL	07/15/15
Pjg Automotive Corp	3041 Frederick Ave	Baltimore	21223	410-566-5878	\$	1,400.00	\$ 1,400.00	EPL	07/15/15
Reds Wine & Spirits #1	12037 Belair Rd	Kingsville	21087	410-592-6202	\$	4,730.00	\$ 4,730.00	EPL	07/15/15
Arundel Metal Products, Inc.	190 Penrod Ct. Sect E and Sec F&G	Glen Burnie	21061	410-760-1446	\$	4,950.00	\$ 4,950.00	EPL	07/17/15
Ui Kyun Shin	6118 Belair Rd	Baltimore	21206	443-838-3934	\$	410.00	\$ 410.00	EPL	07/17/15
Kingsville Auto Repair	12116 Belair Rd	Kingsville	21087	410-597-7178	\$	1,915.00	\$ 1,915.00	EPL	07/22/15
3080 Solomon Island Xtra + 7 Eleven (1)	3080 Solomon Island	Edgewater	21037	-	\$	4,200.00	\$ 4,200.00	EPL	07/22/15
Easter Food Service Inc - Baltimore (1)	3509 E North Ave	Baltimore	21213	410-675-6250	\$	4,130.00	\$ 4,130.00	EPL	08/07/15
Easter Food Service Inc - Baltimore (2)	3509 E North Ave	Baltimore	21213	410-675-6250	\$	2,475.00	\$ 2,475.00	EPL	08/07/15
Mid Atlantic Supply Inc 2	8390 Washington Blvd	Jessup	20794	301-725-0311	\$	840.00	\$ 840.00	EPL	08/17/15
Reds Wine & Spirits #2	12037 Belair Rd	Kingsville	21087	410-592-6202	\$	4,660.00	\$ 4,660.00	EPL	08/19/15
Season & Reasons Inc 2	8909 Mcgaw Rd *Unit 9-10, Li	Columbia	21046	410-381-1830	\$	2,440.00	\$ 2,440.00	EPL	08/19/15
An-Nur Foundation #1	10801 Philadelphia Rd	White Marsh	21162	443-528-0987	\$	4,950.00	\$ 4,950.00	EPL	08/24/15
An-Nur Foundation #2	10801 Philadelphia Rd	White Marsh	21162	443-528-0987	\$	2,475.00	\$ 2,475.00	EPL	08/24/15
Professional Interiors Inc	190 Penrod Ct. Sect N	Glen Burnie	21061	410-375-2888	\$	1,990.00	\$ 1,990.00	EPL	08/28/15
S.M. Atlantic Corp	3605 Wilkens Ave	Baltimore	21229	410-963-5833	\$	2,825.00	\$ 2,825.00	EPL	08/28/15
Robert Oxygen (1)	1601 South Caton Ave	Baltimore	21227	410-644-5015	\$	3,500.00	\$ 3,500.00	EPL	09/02/15

Robert Oxygen (2)	1601 South Caton Ave	Baltimore	21227	410-644-5015	\$ 2,635.00	\$ 2,635.00	EPL	09/02/15
Farooq Ahmed Iqbal - Laundromat	2847 Huntimgdon Ave *Store A Laundromat	Baltimore	21211	443-421-1843	\$ 1,240.00	\$ 1,240.00	EPL	09/03/15
Amocorp Inc	7578 Ritchie Hwy	Glen Burnie	21061	410-553-6840	\$ 1,530.00	\$ 1,530.00	EPL	09/08/15
Magic Statch	44 Alco Pl	Baltimore	21227	410-247-2477	\$ 2,230.00	\$ 2,230.00	EPL	09/08/15
Leon Auge Safoux	9786 Washington Blvd Bay 4	Laurel	20723	240-470-9412	\$ 1,885.00	\$ 1,885.00	EPL	09/11/15
Harjot & Sandeep Enterprise	3923 Hollins-Ferry Rd	Baltimore	21227	410-242-6988	\$ 1,940.00	\$ 3,550.00	EPL	09/12/15
Prime Services #1	S 9701 Annapolis Rd	Lanham	20706	240-487-6924	\$ 4,740.00	\$ 4,740.00	EPL	09/12/15
Atlantic Transmission	4700 Belle Grove Rd	Brooklyn Park	21225	410-609-1277	\$ 2,085.00	\$ 2,085.00	EPL	09/14/15
Fork Auto Body (1)	2705 Belair Rd	Fallston	21047	410-879-8925	\$ 4,495.00	\$ 4,250.00	EPL	09/15/15
Fork Auto Body (2)	2705 Belair Rd	Fallston	21047	410-879-8925	\$ 4,980.00	\$ 4,860.00	EPL	09/15/15
Fork Auto Body (3)	2705 Belair Rd	Fallston	21047	410-879-8925	\$ 4,380.00	\$ 4,100.00	EPL	09/15/15
Kentland Shell	7777 Landover Rd	Landover	20785	301-982-5400	\$ 4,430.00	\$ 4,430.00	EPL	09/15/15
MAACO Laurel #1	8660 Cherry Ln #1-3	Laurel	20707	301-490-3300	\$ 4,980.00	\$ 4,980.00	EPL	09/24/15
MAACO Laurel #2	8660 Cherry Ln #1-3	Laurel	20707	301-490-3300	\$ 4,840.00	\$ 4,840.00	EPL	09/24/15
Latino Gas Inc	16450 Harbour Way	Mitchellville	20716		\$ 4,305.00	\$ 4,305.00	EPL	10/07/15
Odenton Florist Inc	1317 Annapolis Rd	Odenton	21113	410-551-5951	\$ 4,625.00	\$ 4,625.00	EPL	10/07/15
Parks Martial Arts	8251 Telegraph Rd. Suite A	Odenton	21111	418-305-6100	\$ 1,860.00	\$ 1,860.00	EPL	10/07/15
Noor Services 2975 Ext	2975 Chesapeake Beach Rd W	Dunkirk	20754	301-980-2576	\$ 4,685.00	\$ 4,685.00	EPL	10/09/15
Fulton Auto Sales #1	2301 Wilkens Ave	Baltimore	21223	410-945-3335	\$ 4,220.00	\$ 4,220.00	EPL	10/10/15
Fulton Auto Sales #2	2313 Wilkens Ave	Baltimore	21223	410-945-3335	\$ 810.00	\$ 810.00	EPL	10/10/15
Prime Services #2	9701 Annapolis Rd	Lanham	20706	240-487-6924	\$ 2,650.00	\$ 2,650.00	EPL	01/04/16
Exxon Gas Station - 8850 #2	8850 Center Park Dr	Columbia	21045	443-695-4688	\$ 4,410.00	\$ 4,410.00	EPL	
TPC Racing Additional	8040 Wahsington Blvd	Jessup	20791	410-799-7223	\$ 400.00	\$ 400.00	EPL	

\$ 205,678.00